

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

RECEIVED

SEP 25 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Federal-State Joint Board)
Recommended Decision on)
Universal Service)

CC Docket No. 96-45

**COMMENTS OF THE MISSOURI
PUBLIC SERVICE COMMISSION**

In a Public Notice released September 10, 1997, the Federal Communications Commission ("FCC or Commission") seeks comments regarding the Universal Service support distribution options for schools, libraries and rural health care providers. The Missouri Public Service Commission's (MoPSC) comments to the issues presented in the Public Notice are as follows:

PART I: Questions Presented

ISSUE I: Whether a "window" period should be established in which all beneficiaries filing within that period would be given equal priority.

BACKGROUND: In paragraph 535 of the Commission's Report and Order¹, the Commission concluded that universal service spending for eligible schools and libraries would be capped at \$2.25 billion annually, and be committed on a first-come-first-served basis to eligible schools and libraries.

DISCUSSION: Because of this program, there should be a 30 day "window" from January 1, 1998 through January 30, 1998 wherein all applications are treated as received on the same day. Administratively, the Schools and Libraries Corporation (SLC) remains in the process of finalizing the application process as well as organizing its data

¹ Report and Order ("Order") issued May 8, 1997, in Federal Communication Commission CC Docket No. 96-45.

No. of Copies rec'd 024
List ABCDE

base for receipt of applications. With the potential for confusion that results from initiating the program, schools and libraries should not be penalized by the literal meaning of "first-come-first-served" in the Order at ¶535. The 30 day "window" allows schools and libraries initial equal access to the fund. After January 30, 1998, the fund should proceed as administratively ordered in the Commission's rules. Any additional "windows" of time will become confusing and difficult to handle administratively.

ISSUE II: Whether to clarify that the rules of priority for distributing funds to schools and libraries set forth in Section 54.507 of the Commission's rules, 47 CFR 54.507, apply to the \$1 billion collected and distributed between January 1, 1998 and June 30, 1998. That is, if expenditures between January 1, 1998 and June 30, 1998 reach the level where only \$250 million remains before the \$1 billion cap is reached, the remaining funds will be distributed in accordance with the rules of priority.

BACKGROUND: 47 CFR 54.507(a) states in part that the annual cap on federal universal service support for schools and libraries shall be \$2.25 billion per funding year, with one of the exceptions noting that no more than \$1 billion shall be collected or spent for the funding period from January 1, 1998 through June 30, 1998.² Section 47 CFR 54.507(b) further clarifies that the funding year for purposes of the schools and libraries cap shall be the calendar year. Finally, 47 CFR 54.507(g) states in part that when expenditures in any funding year reach the level where only \$250 million remains before the cap will be reached, funds shall be distributed in accordance to the rules of priority.³

² *Id.* at 529.

³ *Id.* at 539.

DISCUSSION: The rule provides that \$1 billion shall be allocated for federal universal service from January 1, 1998 through June 30, 1998. This provision insures control over the initial application and distribution process, and it is not related to the rules of priority discussed in Section 54.507(g).

Section 54.507(g) specifically addresses rules of priority which are triggered when the expenditures over the calendar year are depleted to \$250 million. The \$250 million trigger is intended to be measured against the \$2.25 billion dollars spending cap for the funding year, not the \$1 billion cap allocated January 1, 1998 through June 30, 1998. A contrary interpretation should not be read into the rule. The remainder (\$1.25 billion) will still be collected between July 1, 1998 and December 31, 1998, and the trigger should be applied to the program once it is fully funded at the \$2.25 billion cap.

The purpose of Section 54.507(g) is to insure that educational institutions and libraries with a higher percentage of the economically disadvantaged population receive priority access to the remainder of the \$2.25 billion which may remain at the end of a funding year. However, such educational institutions and libraries are not precluded from participating in the overall application process. Although the exception for \$1 billion between January 1, 1998 through June 30, 1998 provides a method for controlling spending on the \$2.25 billion for the 1998 funding year, the rules of priority should be based on the \$2.25 billion cap on expenditures for the calendar year.

ISSUE III: Whether a mechanism to prioritize requests from rural health care providers should be adopted in the event that requests exceed available funds. For example, should a mechanism be established to insure that funds are distributed to rural health care providers located in all regions of the country. The Commission seeks comment on

whether such a mechanism should be permanent or should apply only in the first quarter of 1998, when collection for rural health care is limited to \$100 million.

BACKGROUND: In the Commission's Order, the Commission estimated that there are approximately 12,000 health care providers located in rural areas that are eligible to receive supported services under Section 254(h)(1)(A).⁴ Based on this assumption, together with additional calculations on types of services and usage, the Commission further estimated that the cost of providing services eligible for support under Section 254(h)(1)(A) is \$336 million if all eligible health care providers obtain the maximum of supported services to which they are entitled.⁵ Thus the Commission concluded that services for health care providers should be capped at \$400 million annually.⁶

The Commission did not anticipate that the cost of funding would exceed the \$400 million cap because of the limits on the services that any one health care provider may request.⁷ Additionally, the Commission does not want to create incentives for health care providers to file for services prematurely.⁸ Applications will be reviewed on a first-come-first-served basis, and funding for the first quarter of 1998 will be limited to \$100 million.⁹ The Commission directed the Administrator to collect \$100 million for the

⁴ *Id.* at 706.

⁵ *Id.* at 707.

⁶ *Id.* at 705.

⁷ *Id.* at 713.

⁸ *Id.* at 713.

⁹ *Id.* at 713.

first three months of 1998 and to adjust future contribution assessments quarterly based on its evaluation of health care provider demand for funds, within the limits of the spending cap. The Commission resolved to consider adjusting the cap at the three year planned review in the event that the requests from health care providers exceed the funding cap.¹⁰

DISCUSSION: The Commission has established a solid mechanism for handling requests for services by eligible rural health care providers, and there is no need to make administrative changes or additions to implement the program. During 1998, there should be no limitations placed on receipt or distribution of funds from the plan other than the orders set forth in the Commission's Report and Order. The Commission has capped the plan over its initial estimated cost to insure that all eligible rural health care providers are accommodated. Therefore the plan should be maintained on a first-come-first-served basis, noting that the fund is intended to service all eligible rural health care providers by the end of the year.

It would be potentially inaccurate and administratively burdensome to attempt to evenly distribute funds during the first year given the uncertainty of the need of rural health care providers nationwide. Because of the uncertainty of the need, the administrator is directed to closely scrutinize and provide quarterly updates on the plan's progress to determine if adjustments for fund distribution within the cap are warranted.¹¹ These progress reports will also allow the Commission to formulate a complete picture over a year as to the needs of rural health care providers. If at the end of 1998, there

¹⁰ *Id.* at 715.

¹¹ *Id.* at 710.

remains discrepancies as to the equality of the distribution of funds verses the needs of health care providers nationwide, adjustments should be made to more equally distribute the funds nationwide. However, such an adjustment will only be warranted where the need exceeds the cap. Where the need remains within the cap, the distribution of funds should remain on a first-come-first-served basis.

PART II: Recommendation by the E-rate Implementation Working Group

On July 31, 1997, the E-rate Implementation Working Group ("E-rate Group") submitted a recommendation to the Commission concerning: 1) the design of the application form to be submitted by schools and libraries for Universal Service Fund ("USF") support and; 2) alternative measures for review by state education or library agency for the required approval of Technology Plans as part of the E-rate application process. The Commission concurs with the E-rate recommendation with the exception of Part V relating to a data warehouse on page 10 of the report.


BACKGROUND: The E-rate proposes to create a publicly accessible national data warehouse which would capture all necessary information relating to schools and libraries and the USF. Such information would be stored in digitized form, allowing its incorporation by reference as appropriate in E-rate applications. For example, the E-rate Group points out that one file could be devoted to information on individual schools and libraries, including a unique identifier, physical location, contact person, population, building count, poverty measure, technology inventory and identification of the technology plan(s) applicable to it using the unique identifiers from the technology plan file. The school/library or some higher level entity may input the school/library record into the system and the completion and accuracy of this information would be a prerequisite to its E-rate eligibility. A second file could incorporate technology plans, and a third the

E-rate applications. The E-rate Group concluded that this data warehouse could be created in less than a year at a cost of approximately \$5 million to the SLC. The E-rate Group recommended that the Commission direct the SLC to explore the feasibility and cost effectiveness of establishing such a data warehouse.

DISCUSSION: Establishing a data warehouse is good in theory, but not in practice. Schools and libraries are already required to submit detailed applications and technology plan(s) to be approved by the appropriate state entity or potentially the SLC. Further, the schools and libraries are to maintain these records and have them available for auditing and random review. Where a question arises concerning an application or technology plan, the appropriate state entity can be contacted for clarification. If the Commission, develops a method wherein the application process as well as the technology plan(s) become standardized for more efficient processing, as the E-rate Group recommends, the schools and libraries would be further prepared in the event that questions arise. In addition, since schools and libraries may apply individually, by district, consortium, or other means, cross referencing unique identifiers would not be sufficient. By creating a data warehouse, the Commission would duplicate an existing state process and add an unnecessary and administratively burdensome step to the system. Not only would the Commission face the problem of administratively maintaining accurate

information, but the administrative cost, which could in the end exceed \$5 million, would divert needed funds from schools and libraries.

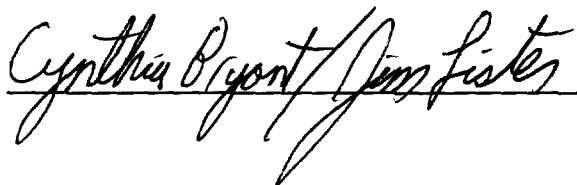
Respectfully submitted,


Cynthia R. Bryant
Assistant General Counsel
Missouri Bar No. 47937

Attorney for the Staff of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
573-751-7431
573-751-9285 (Fax)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 25th day of September, 1997.



Service List**CC Docket No. 96-45****September 25, 1997**

Eileen Benner
Idaho Public Utilities Comm.
P.O. Box 03720
Boise, ID 83720-0074

Emily Hoffnar
Federal Communications Commission
2100 M Street, N.W., Room 8617
Washington, D.C. 20554

Alex Belinfante
Federal Communications Commission
2033 M. St., Ste. 502A
Washington, D.C. 20554

Larry Povich
Federal Communications Commission
2033 M. St., Ste. 500
Washington, D.C. 20036

H. Russell Frisby, Ann Dean
6 Paul St., 16th Floor
Baltimore, MD 21202-6806

Thor Nelson
CO Office of Consumer Counsel
Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, Pennsylvania 17120

Deborah S. Waldbaum
CO Office of Consumer counsel
1580 Logan Street, Ste. 610
Denver, CO 80203

David N. Porter
World Comm. Inc.
1120 Connecticut Ave., NW
Suite 400
Washington, D.C. 20036

Media Access Project
American Way, et al.
1707 L St., N.W.
Suite 400
Washington, D.C. 20036

Jeanine Poltronieri, Jonathan Reel
Andrew Mulitz, Deborah Dupont
Gary Oddi, Clara Kuehn
Federal Communications Commission
2000 L Street, N.W., Suite 257
Washington, D.C. 20554

Timothy Peterson
Federal Communications Commission
2100 M Street, N.W., Room 8613
Washington, D.C. 20554

Tiane Sommer, David N. Baker
Georgia Public Ser. comm.
244 Washington St., SW
Atlanta GA 30334-5701

Rowland Curry
TX Public Utility Comm.
P.O. Box 13326
Austin TX 78701

The Honorable Rachelle B. Chong,
Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

Mark Long, Julia Johnson
Bridget Duff
Florida Public Service Commission
2540 Shumard Oak Blvd.
Gerald Gunter Building
Tallahassee, FL 32399-0850

Laska Schoenfelder, Commissioner
South Dakota Public Utilities Commission
State Capitol, 500 E. Capitol Street
Pierre, SD 57501-5070

Deonne Bruning
Nebraska Public Service Commission
300 The Atrium
1200 N Street, P.O. Box 94927
Lincoln, NE 68509-4927

The Honorable Reed E. Hundt, Chairman
Tom Boasberg
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

The Honorable Susan Ness, Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

The Honorable Sharon L. Nelson
Teresa Pitts
Washington Utilities & Trans. Comm.
P.O. Box 47250
Olympia, WA 98504-7250

Charles Bolle
South Dakota Public Utilities Commission
State Capitol, 500 E. Capitol Street
Pierre, SD 57501-5070

James Casserly
Federal Communications Commission
Office of Commissioner Ness
1919 M Street, Room 832
Washington, D.C. 20554

Lori Kenyon
Alaska Public Utilities Commission
1016 West Sixth Avenue, Suite 400
Anchorage, AK 99501

Debra M. Kriete
Pennsylvania Public Utilities Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Samuel Loudenslager
Arkansas Public Service Commission
P.O. Box 400
Little Rock, AR 72203-0400

Sandra Makeeff
Iowa Utilities Board
Lucas State Office Building
Des Moines, IA 50319

Phillip F. McClelland
Pennsylvania Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, Pennsylvania 17120

Michael A. McRae
D.C. Office of the People's Counsel
1133 15th Street, N.W. -- Suite 500
Washington, D.C. 20005

Terry Monroe, Kevin Schwenzfeier
New York Public Service Commission
3 Empire State Plaza
Albany, NY 12223

John Morabito, Rafi Mohammed
Gary Seigel
Federal Communications Commission
2000 L Street, N.W., Suite 812
Washington, D.C. 20554

Mark Nadel
Federal Communications Commission
2100 M Street, N.W., Room 8916
Washington, D.C. 20554

Lee Palagyi
Washington Utilities and Transportation
Commission
1300 South Evergreen Park Drive S.W.
Olympia, WA 98504

Barry Payne
Indiana Office of the Consumer Counsel
100 North Senate Avenue, Room N501
Indianapolis, IN 46204-2208

James Bradford Ramsay
National Association of Regulatory Utility
Commissioners
P.O. Box 684
Washington, D.C. 20044-0684

Brian Roberts
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Gary Seigel, Whiting Thayer
William Howden
Federal Communications Commission
2000 L Street, N.W., Suite 812
Washington, D.C. 20554

Pamela Szymczak
Federal Communications Commission
2100 M Street, N.W., Room 8912
Washington, D.C. 20554

Paul Gallant, Kathleen Franco
Federal Communications Commission
Office of Commissioner Quello
1919 M Street, Room 802
Washington, D.C. 20554

**Office of Advocacy
U.S. Small Business Admin.
409 Third Street, SW
7th Floor
Washington, D.C. 20416**

**International Transcription Service
2100 M Street, N.W., Room 140
Washington, D.C. 200037**

**Martha S. Hogerty
Public Counsel for the State of Missouri
P.O. Box 7800
Jefferson City, MO 65102**

**Sheryl Todd
Common Carrier Bureau
2100 M Street, N.W., Room 8611
Washington, D.C. 20554**

Provided with 8 copies